IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

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WRIT PETITION NO : 21463 of 2003

Between:

Adoni Municipality, rep. by its I/c.Commissioner,

Dr.G.Vijaya Kumar.

..... PETITIONER

AND

1 B.Riyazuddin Basha, S/o.B.Mohd.Yousuf,
Aged 25 years, R/o.Kurnool Dist.
2 The Industrial Tribunal-cum-Labour Court,

Anantapur Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ of Certiorari or any other writ, order or direction by declaring the action of the 2nd respondent in passing Award in I.D.No.215/2001 dated 20-5-2003 published by a Notification G.O.Rt.No.1249 dated 5-7-2003 as illegal, arbitrary, unjust, unreasonable without jurisdiction, opposed to public policy, violative of principles of natural justice and also violative of fundamental rights guaranteed under Articles 14 and 21 of the Constitution of India and set aside the same by directing the 2nd respondent to pass orders on merits by giving ample opportunity to the petitioner.

Counsel for the Petitioner: MR K.M.MAHENDER REDDY

Counsel for Respondent No.1: MR. P.RAGHAVENDER REDDY

The Court made the following <u>ORDER:</u>

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Adoni Municipality, Kurnool District (for short, 'the Municipality), questioned the order of the Industrial Tribunal-cum-Labour Court, Ananthapur (for short, 'the Tribunal), dated 20-5-2003 in I.D.No.215 of 2001, on the ground that the said I.D. filed by the first respondent/workman was allowed without serving any notice on it. The petitioner-Municipality was set exparte on the ground that even after receipt of the notice, the respondent has not contested the matter and accordingly, after examining the workman, the I.D. was allowed directing the Municipality for the reinstatement of the petitioner-workman into service.

2. This Court by order dated 14-10-2003 in W.P.M.P. No.26795 of 2003, initially suspended the award dated 20-5-2003 in I.D.No.215 of 2001 passed by the Tribunal. On filing a vacation petition by the Municipality in W.V.M.P.No.688 of 2004, this Court called for a report from the Tribunal as to whether notice was served in I.D.No.215 of 2001 on the Municipality or not.

3. The Tribunal vide its report dated 2-4-2004 sated that a notice was sent to the Municipality by registered post with acknowledgment due and the Postal authorities served the notice and returned the acknowledgment to the Tribunal on 8-10-2001, but the Municipality did not appear before the Tribunal even at the adjourned date and therefore, the Municipality was called absent and set exparte.

4. On the other hand, the learned Counsel appearing for the petitioner-Municipality submits that summons were not at all received by the Municipality and the in charge Manager, who received the summons on 8-11-2001, did not brought to the notice of the Commissioner, and the concerned Clerk has not made entries in the Inwards Register of the Municipality, and therefore the Municipality could not be present in the Tribunal. It is stated that some mischief has been done as regards the receipt of summons as the father of the petitioner was working in the Municipality at that time as L.D.Clerk and now he is retired. It is further stated that the petitioner/workman was a student, studying Intermediate with M.E.C. group in Adoni Arts and Science College, Adoni in the year 1994-95, and therefore the claim of the workman i.e. the first respondent herein that he worked in the Municipality from 1-1-1995 to 10-4-1996 is totally false and untenable. It is further stated that the Service Certificate, which he produced in I.D.No.215 of 2001, does not bear the outward number of Municipal

register nor any application is found in the concerned Section for issuing Service Certificate, and there are no initials of the concerned Clerk, and therefore the Service Certificate dated 10-4-1996, which is marked as Ex.W-1 in I.D.No.215 of 2001, is a fabricated one.

5. Without going into the controversy as to whether the notice was served properly on the Municipality and whether any mischief has been committed in getting the signature on the summons sent by the Tribunal, I am of the opinion that it is just and proper to rehear the Municipality and pass appropriate orders on merits after hearing both the parties.

6. Accordingly, the Award dated 20-7-2003 in I.D.No.215 of 2001 passed by the Industrial Tribunal-cum-Labour Court, Anantapur, is set aside and the matter is remitted back to the Tribunal, restoring I.D.No.215 of 2001 on its file for disposal afresh after giving an opportunity to both the parties in accordance with law, as expeditiously as possible. No order as to costs.

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(V.ESWARAIAH, J)

Dated: 27th July, 2004.

Shr/Ak*

To

1.The Chairman-cum-Presiding Officer, Industrial Tribunal-cum-

Labour Court, Anantapur.

2.Two CD copies.